

Cam. d. 651. 1

47

A True state of the  
**C A S E**  
O F

Mr. Hotham,

Late Fellow of *Peter-House*;

Declaring the grounds and reasons of his Appeal to the Parliament, against the sentence of those Members of the Committee for Reformation of the Universities; who on *May 22.* last, Resolv'd the *writing and publishing of his book Intituled The Petition and Argument, &c.* to be scandalous and against the Priviledge of Parliament; and himself to be depriv'd of his Fellowship in that Colledge.

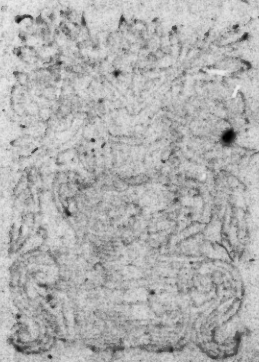
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J.W. CLARK'S  
CAMBRIDGE  
COLLECTION

Printed in the Year, 1651.

13-176







To every Member of the Parliament  
of the Common-wealth of *England*.

*A true state of the case of Charls Hotham of Peter-  
house, lately depriv'd of his Fellowship in that Col-  
ledge, by the Committee for Reformation of the Uni-  
versities.*

*Humbly representing for the more full and clear understanding of  
the grounds and reasons of his Appeal to the House against their  
censure.*



That in the year 1644. The University of *Cam-  
bridge*, being by multiplicity of ejectments of  
Delinquent Masters and Fellows, almost  
wholly depopulated, and there being a great  
want of men of reasonable seniority, for the  
supply of those many vacancies, he did, not of  
his own seeking, but upon several motions  
from some of that Colledge, and after near half a years deli-  
beration, accept of a poor Fellowship in *Peter-house*, confer-  
ed on him by authority of Parliament; which Fellowship he hath  
ever since that time stood seized of, with all the rights and pri-  
viledges thereof, as his just and legall possession; and hath, as  
he can well make it appear, demean'd himself in that charge both  
as becomes a Christian, and a faithful member of that Colledg and  
University, and of the Common-wealth of *England*; whose in-  
terest he hath always to this day zealously promoted to the utmost  
of his power.

That in pursuance of the same Common-wealth interest, he did on the 27. of *March* last past, prefer a Petition to the Honourable, the Committee for Reformation of the Universities, against the negative voice of the Master of that Colledge; and for the fuller extirpation of that destructive power of one man over a Community, did pray of that Committee, that a remedy might be granted the Colledge agreeable to what was granted by Parliament to the Common Councel of the City of *London*, in the year 1648. against the negative voice of the Lord Mayor of that City.

That on *April* the tenth last past, being the day appointed for taking his Petition into consideration, he did (as he humbly conceives) make it appear before the said Committee, that the Master of the Colledges claim to a negative voice, was not at all warranted by the Statutes of the University rightly understood, and was besides contradictory both to the Founders intention exprest in the Statutes of the Colledge, the grounds of our war against the late King, the common Law of reason, and the interest of a Common-wealth. And that to the taking away the many sad inconveniencies of the negative voice, the remedies by him Petition'd for, were of little less then absolute necessity, being no other in substance, then what the wisdom of Parliament had thought fit to be granted in a parallel case to the City of *London*, where yet the danger was not so great, as in our smaller Corporation; their chief officer being annually changeable, and new elected to his trust; but ours, one and the same during the whole term of life.

And he was hopeful that these his endeavours would have procured a speedy and effectual redress of that fundamental grievance of the Masters negative voice; and his power of calling or dissolving of meetings, and propounding or refusing of questions at his own only pleasure.

But the Committee (possibly not having power to go further) were pleas'd, that day, onely to make a resolve of taking a view of the Statutes of every Colledge throughout both Universities, that they might be reduc'd to such a state, as might render them most conducing to the advancement of true piety, and the interest of a Common-wealth; and did then appoint a sub-Committee  
of

of their own members, or any three of them to meet, consider, and make report concerning the same; some of which about 15 days after, did meet, and give order, that the Heads of Colledges, and officers intrusted with the government of the Universities for the time being, should send them transcripts of the said Statutes; and should likewise themselves meet, and propose to them their opinions of what they should find in the said Statutes prejudicial to Religion, piety, learning, good manners, or the present government, or of any defects in the said Statutes, and the best remedies for supplying them.

Which way of proceeding, however intentionally good in those worthy Gentlemen of the sub-Committee, yet he fear'd, that through the suggestions of the Master of the Colledge residing in *London*, and his assistant *Mr. Byfield*, together with some Colledge impediments, would prove a way of prolongation and perplexity, tending to the wearying out of those that were really desirous of reformation, and rendring all their endeavours fruitless; The suppression of a negative voice, though the main scope of the Committees first resolve, being not once mention'd in that Order: and it being besides very unlikely, that the Head of our House, whose concurrence was as to our Colledge specially required, would be instrumental to the abatement of his own prerogative.

Whereupon knowing of what great concernment it might be to some principal points of the Reformation resolv'd on, that both the first Resolve, and the occasion upon which it was made, should be publickly known by all that were to be actors in it; he did (for the better information both of the Universities, and very many Members of the Committee not present at the making of the first Resolve) publish in print his said Petition and Argument, with a full historical Narrative of that days proceedings, as to that Colledge, of which he was a member, together with two Prefaces, the one to the honourable Committee, the other to the Society.

In the former of which he did with all due respect, and in humble manner, make to the honourable Committee, a discovery of such obstructions as he conceiv'd would retard them in this way of their intended reformation; And was hopeful that his publishing thereof, would both have appear'd a necessary and acceptable service, and have procur'd a removal of those obstructions. But the contrary soon appear'd.



For no sooner was his book publish't, but it was on their very next sitting day complain'd of in that Committee; and was by them referr'd to a sub-Committee of divers of their Members, or any two of them, to consider of the said book, and report their opinions concerning the same on *May 29<sup>th</sup>* next ensuing; which he hearing of, did on that day present himself before them; And being ask't the question, did (except in some inconsiderable escapes of the Printer) own the book; Whereupon he was commanded to withdraw. And immediately (upon one or two of the sub-Committees report) without his being at all call'd to hear any charge, or make answer for his defence, his writing and publishing of his book was adjudged scandalous, and against the privilege of Parliament; and he to be depriv'd of his Fellowship in the said Colledge, which at their very next sitting was confer'd upon another. Which extream hard measure, not usually proceeding from Committees of Parliament, he cannot but impute to the evil influences of the Master of the Colledge, and of his officious agent Mr. *Byfield*, who though no

*\* Some employment he hath at the Committee for augmentations, sitting on Wednesdays: but when they sit as a Committee for Reformation of the Universities on Thursdays, he hath (as far as I can learn by any means) no pretence of office there, but is a meer intruder: and therefore being no ways entrusted by the University, nor call'd to it by the Committee, his uncivil intrusion into their privacies, together with his other intermedlings, renders him justly suspected.*

member or officer, either of the University, or of that Committee for Reformation\*, yet intrudes himself to be present, a hearer and speaker in their private debates, even in such cases wherein he hath pleaded as a party, and when those most concern'd to be present, and could give truest information, have been commanded to withdraw. And hath further sometimes endeavour'd to intrude his alloy into the penning of their orders.

Of which strange censure and proceedings against him he is the more sensible, because he knoweth in his own conscience that he hath in these his representations of truth to the honourable Committee used much candor; and hath been very tender and careful of not giving them any just cause of offence; and is as yet altogether ignorant that his book containeth any thing of that nature; there being nothing therein but what he verily believes he is able upon an

indifferent hearing to make appear to be consistent with truth, and with that respect due to such an honourable Assembly; and much tending to the advancement of the true principles and interest of the Common-wealth of *England*. Nor doth he know that he hath done any thing against the priviledge of Parliament; and is certain he should have been very careful to have avoided any thing tending thereunto, had he been so happy as to have had any means of knowing what those priviledges were.

And in all humility wisheth they were publish'd to the whole Nation, that other men might not be thus split (as it hath been his hard lot to be) upon rocks under water. And he is further wholly unsatisfied how so great a power can be in that Committee, as to enable them to adjudge that scandalous, and against the Priviledge of Parliament at their own private discretion, which no precedent Law, Act, or Declaration of Parliament hath manifested to be of that nature; or to deprive any man of his just and legal possession, whether descended to him by the ordinary course of Law, or confirm'd upon him by authority of Parliament, without due triall and conviction for some offence punishable with such forfeiture; An arbitrary power in any Court of Judicature having been always accounted (as in the High-Commission, Star-Chamber, &c.) a grievance of the highest nature, and the same declared by the Commons in Parliament, *April* the 17<sup>th</sup> 1646. (when the Assembly of Divines desir'd such a power to be invested in their Presbyteries) to be inconsistent with the fundamental Laws and government of this Nation.

Yet that these their proceedings against him were wholly arbitrary, may here appear in that he was neither by those of the sub-Committee, which were appointed to consider, and report their opinions of his book, nor by the Committee it self, once call'd to hear any charge, or to make his defence, as to any scandalous matter contain'd in his boook; or any thing therein tending to the infringement of the priviledge of Parliament, or any Law by him transgress'd in the writing or publishing thereof.

Their only charge laid against him in his absence, as is attested by their publick officer, was *verbatim* as followeth.

"*The Petition and Argument of Mr. Hotham, The book, though without a name, owned by him, dispersed by him, his Letters about it.*

" *Epistle*

" *Epistle to the Committee, His Argument against the Order of the sub-Committee, p. 4, & 5.*

" *This I say, that that power which can eject a man out of his legal possession for a misdemeanor of a date of near two years old committed and punished in the days of his minority, long before his entrance into that possession, must sure be very transcendent, and above that of any, either Common Law or Chancery, that I have heard of, p. 45, 46.*

*Gilb. Millington.*

*Peter Temple.*

To which though he (being not suffer'd to be present at their making the report) holds himself no ways oblig'd to make answer: yet for the better vindication of his integrity, he cannot but take notice

1. That it seems strange to him the book should be said to be without a name, his name being prefixt both in the very front of the Title page; and to each of those two several Prefaces, in both of which he own'd the whole book.

2. For his owning and dispersing the book, by sending Copies with Letters to Members of the Committee, till the book it self be duly proved and adjudged scandalous, he hopes will be accounted no crime; and for his Letters about it, he appeals to those Gentlemen themselves to whom they were written; and requests of them that favour, that if there were in them any scandalous or unseemly expressions, it may be declar'd before the whole House.

Concerning his Epistle to the Committee and Argument (as the Reporters stile it) against the order of the sub-Committee, he hopes the prefacing to the one, or in a fit manner representing to the other the inconveniencies or imperfections of their order was a thing not at all contrary to any Law of the Land, or of common reason; books having been usually put forth with Prefaces Dedicatory to the Parliament it self, with many Petitions representing ways of Reformation, diverse from their present proceedings.

The only offensive passages cull'd out of the whole book by the reporters, are pages the 4 and 5 of the Preface, and page 46 of the



the book it self : All which seem to reflect either upon Mr. Byfield, or upon the Committee, or sub-Committee themselves.

As for Mr. Byfield, he being already prov'd to be a meer intruder, or, as the Apostle phrases it, a busie body in other mens matters, no reason why he might not be made bold with ; and if he were resembled to that *Switzer*, who by his tall stature, and grave aspect, sumptuous coat, and gilded halberd (which the Country-fellow might possibly take to be a Royal Scepter) together with that imperial power he exercised in knocking away the rude multitude from the gates, and those many low congies that were made to him for admittance into the Court, was by the Idiot mistaken to be the King himself ; its a similitude will hold water in the most material circumstances.

For that this man is by many of the University and others look't at as a great man, and sought to by most of those that make addresses to that Committee, is a thing will not be denyed by any ; and much disputing there hath been both in the University and elsewhere, under what notion, or in what relation he was so constant an attendant there : some said he was the Clerk, some a member of the Committee, others that he stood there to represent the Assembly of Divines, whose Scribe he once was. The only grand circumstance the similitude fails in, is, that to stand at the gate was the *Switzers* office, being its like the Porter : But that Mr. Byfield hath not so good plea for his officious attendance.

To all which if you add this further, that he is generally reputed to be a man of a meer Kirk interest, and attending there to promote it (of which you have a taste in that speech of an observing man in our Colledge, quoted page 3. of the Preface) he hopes 'twill not be thought ill service to have given the Committee notice how by this mans intrusions, a general disrepute was in danger to be cast upon their whole proceedings.

And for charging upon him a suspicion of having had a finger in the penning that Order of the sub-Committee, 'twas not altogether groundless, he having been in a former case deprehended in the very manner, grossly tampering, as may appear by the following attestation of one of our Colledge, who was present with me at the discovery.

"When Mr. Hotham and I came to Mr. Needler for the Order

"concerning Probationership, granted upon our Petition the day before, by the Honourable Committee for Reformation of the Universities; and having read it over, told him, it was not drawn as we conceived according to the sense of our Petition, or the Committees grant: One that was then with Mr. Needler, answered, it was well enough before Mr. Byfield caused it to be altered, and put in to those terms. Thereupon we desired Mr. Needler to give us a sight of that Order which was first drawn, which he speedily brought to us, and told us he had drawn it up according to the sense of the Committee, but that the other which Mr. Byfield caused him to draw seemed to him nonsense.

Ita testor

*James Clark.*

Therefore having these just grounds of suspicion, that those deficiencies in that Order might probably have their original from the same fountain; he might well think it his duty to manifest them.

And for the Order it self, he hopes 'twill appear enough out of what he hath express'd in the second and third pages of his Preface, that his design was not to carp at, but applaud it. And as for those obstructions pointed at, he leaves to any indifferent man to judge, whether they were not really such. As,

1. Whether the not sending down to the University (being now call'd in to act their parts in the Reformation) a transcript of the Committees first Resolve; or at least the suppression of its very life and soul in this second Order, by an exchange of that vivacious and clear phrase of [*Advancement of the interest of a Common-wealth*] into that low ~~and~~ expression of [*Prejudicial to the present government*] were not (though far from those Gentlemens intentions) in its reality a mist cast before the eyes of the Universities, and tending naturally to make them set up their rest in the mid way of their journey?

2. Whether the Master of the Colledges concurrence being requir'd as a principal ingredient in presenting of matter for the Reformation, and yet he suffer'd to reside at *London*, where he had such large opportunities of obstructing it; and besides the using of his Negative voice not yet taken from him, were not of probable danger to envenome or obstruct its progress?

3. Whe-

3. Whether a company of young unexperienc'd Novices, most devoted to the Masters interest, invested (by their being made compleat Fellows a year before their time) with equal power in this grand transaction with those of ancientest standing, and experience; and these probable to be abetted by the Masters power at *London*, were not a just discouragement to our Colledge from acting their parts?

And for what was there alledg'd by him of these lads necessary ignorance and inexperience in Colledge affairs, and Statutes, of their incapability of that power of acting as compleat Fellows by our fundamental Statutes, of their being by their several relations and obligations to the Master most devoted to his interest, and of the strong probability there was that they would act according to his private instructions; these things falling most properly within our Colledge cognizance, he dare appeal to the consciences of all there present, whether he hath not spoken the truth; and humbly propounds whether they of the Colledge are not the most competent judges of the truth or falshood of this assertion.

But how these Novices came to be invested with that extraordinary power amongst us, because in that passage he hath seem'd to be most bold in reflecting upon the Committee it self; he hath annexed hereto a full account of the whole proceedings of that controversie.

To that excerpt out of the latter end of his book he might alledg,

1. That that short Apologetical preamble with which 'twas usher'd in, and which might have procur'd a more favourable aspect on the whole sentence, is by the reporters cut off, viz. these words [though I will not take upon me to enquire into the hidden mysteries of a superiour power] yet this I shall say, &c.

2. That his very words are alter'd, which were not [this I say] but [this I shall say.] Upon which exceptions though he laies not much stress (being resolv'd to make use of point-blank reason, not any *Leguleian* shifts to vindicate his integrity) yet he appeals to any indifferent man whether such omissions smell not something of a desire to prejudice him.

But take the words as they are set down by the Reporters themselves, and he dare appeal to the consciences of all Englishmen, whether they are not a clear truth; viz. "*This I say, That power*



\* 'Twas near  
three years.

"Which can eject a man out of his legal possession for a misdemeanour  
"of a date of near \* two years old, committed and punished in the days  
"of his minority, long before his entrance into that possession, must  
"sure be very transcendent, and above that of any either Common-  
"Law or Chancery that I have heard of.

Lastly, he humbly propounds to your consideration the nature of the Commission directed from the Committee to these Gentlemen of the sub-Committee, or any two of them, which was not to consider of the book, and onely to cull out matter of accusation, but to report their opinions of the whole, under which consideration would have fallen naturally these questions;

1. Whether those impediments of the Reformation he gave the Committee notice of, were not really such?

2. Whether those things objected against Doctor *Seaman* and Mr. *Byfield*, might not be prov'd to be consistent with truth, and of good use to be enquir'd into?

3. Whether 1. That treacherous dealing of the Master of the Colledge in hindring us of an Election we desir'd, upon pretence of keeping the Fellowship vacant for Colledge debts, and yet giving way to his own man to get it to himself. ||

|| Besides the talking with him to London a Letter in which were some expressions of seeming prejudice to the Colledge, and to give it in to Mr. Byfield to have pleaded it if need were in his mans behalf against the Colledge Title: which Letter being delivered to him in a Colledge meeting, he hastily upon the reading put up in his pocket, refusing to leave it to be kept either by him to whom 'twas written, or by the President, among other papers of publicke concernment.

2. And afterwards in another Election instead of coming down to be present, or acquainting the Fellows before the Election, with what particular exceptions he had against the person in view to be Elected; to appear after the Election, with his exceptions before the Committee, in effect as an enemy, and accuser of the President, and Fellows for Electing him.

3. And lastly, his refusal so much as to joyn in a Petition, that one made Fellow by the Committee, who had not long before publicly in the face of the whole Colledge, parallel'd the Parliament with the plotters of the Gun-powder Treason, might stand Probationer for one year according to our Colledge Statute, were not high breaches of his trust to the Colledge; and of his engagement to be true and faithful to the Commonwealth of England; and he for this and the former causes deeply meriting to be remov'd from his office of the Mastership of that Colledge?

4. And

4. And principally, whether his Argument against the Masters Negative Voyce, with those other appendant powers there mentioned, were not full fraught with reason and convincing evidence, that they ought to be declar'd against and abolish't: and whether both in the Prefaces and throughout the whole Book it self, a strong endeavor towards the promotion of true Parliamentary Principles and advancement of a Commonwealth interest were not most visible and apparent?

And therefore for the Reporters without once taking notice of any one of those most materiall points of inquisition, or giving their Opinions of the whole, to fix only upon a few passages of the Preface and Conclusion conceived most obnoxious to Censure, and to represent those only to the Committee that entrusted them with the consideration of the whole Book: he humbly leaves it to the judgement of every Member of Parliament, whether it were an indifferent discharge of their Commission, or rather the pursuance of a design both to ruine him, and discourage others from ever appearing for that true Commonwealth reformation by him contended for.

Therefore finding thus contrary to all expectation his faithful endeavours for the advancement of the Commonwealths interest (in the extirpation of that root of tyranny, a Negative voyce) thus suppress't, his person disgrac'd, his sincere affection to the Parliament misrepresented, his good intentions and endeavors for publike good misconstrued, and his legal possession wherein he might have been further serviceable, thus taken from him, having no hopes of redress there, where unheard he hath been condemn'd, and where he hath cause to fear the malice of his adversaries hath been too operative, he hath taken the boldness (and craveth leave) to make his Appeal from the proceedings and censure of that Committee, unto the Supream Justice of this Honorable Parliament, in full assurance,

That you will be pleased to take into your own serious consideration, the manifold prejudices of a Negative voyce, and those other destructive powers of the Master of the said Colledge, largely set forth in this Book, to which he humbly referreth. And that you will abolish the same for ever, as you have done in the City of London its abolition in a publike Nursery of youth, being (as

he hopes he hath in that Book demonstrated, pag. 22, 23.) of most eminent concernment to the whole Nation.

2. That you will sadly lay it to heart, in what an unsure condition the freedom of every Member of the Commonwealth of *England* stands, if like Tenant at will he may be at the pleasure of a Committee, upon a meer general pretence of scandal, or breach of Priviledge, not declar'd such by any precedent Law, thrust out of that possession or office he enjoys as his Freehold, whether by ordinary legal descent, or Parliamentary authority.

3. And withall in numerous Committees, where no particular member is necessarily required to be present, but any five, or the like small number suffices to make a *Quorum*; how easie it is in Committees so constituted for any just and innocent man to be oppress'd by a few misinform'd members, while others, either not knowing, or not regarding, or by their necessary diversions in other Committees, are inforc'd to be absent. And how if timely care be not had for prevention, it may come to be many of your own cases ~~many of your own cases~~.

4. That you will please to consider how probable 'tis that nothing but his constant and open appearances for Commonwealth principles may have been the true original of these exasperations of some against him: and how great discouragement must needs fall on your cordial friends both in the Universities and elsewhere, where his constant good affection to the Commonwealth, attested in the following Certificate, (B) under the hands of many eminent and well known persons in the University, and abundantly express'd in that very Book he is condemn'd for, and these unheard of proceedings against him hereunto annex'd, (A) shall come to be compared together.

And how great a colour it will give to enemies to calumniate your Authority if you shall suffer an Endeavourer after the best Reformation to fall under the like doom with that of the rebuilder of *Jericho*.

And lastly, That upon a due consideration of the premises, you will be pleas'd to use your particular endeavour, that his Petition now in the hands of a worthy Member of the House may be taken into speedy consideration.

*Charles Hotham.*

*May*



( A )

May 22. 1651.

*At the Committe for Reformation of the Universities.*

**O**Rdered that Doctor Palmer, Mr. Nevil, Mr. Oldsworth, Mr. Moile, Mr. Millington, Mr. Dormer, Mr. Peter Temple, and Mr. Rous, or any two of them be a Sub-Committee; to consider of the book this day presented to this Committee, Entituled, *The Petition and Argument of Mr. Hotham, &c.* and to report their opinions concerning the same to this Committee on this day seven-night.

## The Report.

*The Petition and Argument of Mr. Hotham.*

The Book, though without a name, owned by him, dispersed by him, his Letters about it;

Epistle to the Committee; His Argument against the Order of the Sub-Committee. p. 4. and 5.

This I say, that that power which can eject a man out of his legal possession, for a misdemeanor of a Date of neer two years old, committed and punished in the dayes of his Minority, long before his entrance into that Possession, must sure be very transcendent; and above that of any, either Common-Law or Chancery that I have heard of, p. 45, 46.

*Gilbert Millington,**Pet. Temple.*May 29<sup>th</sup> 1651.

At the Committee for Reformation of the  
UNIVERSITIES.

**V**Pon hearing the Report from Mr. Millington, touching the Book Entituled *the Petition and Argument of Mr. Hotham, &c.* And upon long and serious debate thereof,

*It is resolved by this Committee,*

That the writing and publishing of the said Book, which was  
this

this day publikely owned before this Committee by the said *Mr. Hotham*, is scandalous, and against the priviledge of Parliament.

*Resolved by this Committee,*

That *Mr. Hotham*, Fellow of *Peter-house* in *Cambridge*, be deprived of his Fellowship in the said Colledge from this time forward, and the President of the said Colledge is to see that this be put in execution accordingly.

Present at the making of this Order, besides the *Chayrman*, were these Members following :

*James Chaloner.*

*Ro. Brewster.*

*Jam. Whittaker.*

*Will. Say.*

*Gilb. Millington.*

*Mr. Oldsworth.*

*Mr. Millington.*

*Mr. Salloway, Sen.*

*Mr. Peter Temple.*

*Sir Arth. Haslerig.*

*Mr. Rous.*

*Mr. Say.*

*Colonel Harvey.*

*June 12. 1651.*

**W**Ee whose names are hereunder written, being requested to declare our opinion concerning *Mr. Charles Hotham* of *Peterhouse* in the *Univerfitie of Cambridge*, do hereby freely and from our consciences testifie concerning him. That as he hath for many years been generally known and approved of by the most godly and best affected men in the said *Univerfitie* for a man of very great eminency in Learning, strictness in Religion, unblameableness in conversation, and good affection to this present Parliament; So he hath to our knowledge in particular, as well in his private converse, as in his publick performances, fully answered, if not exceeded common estimation. And we further testifie, that he hath in the most dangerous times publikely asserted, and in his place zealously prosecuted the Parliament Cause; and that he hath at all times, as occasion hath been offered, and especially in the year of his Proctorship, with good success endeavoured the advancement of Religion and Learning, and promoted the Reformation of the University. And we do verily believe, that as he hath been an ornament, and a happy Instrument of much good

good to this University. So by the blessing of God upon his further proceedings, he will be very serviceable to the Commonwealth in whatsoever place the providence of God shall call him unto. In witness whereof we have hereunto set our hands the day and year above written.

*Isa. Worral.*  
*Charls Robotham.*  
*Rob. Cheek.*  
*Rich. Stedman.*  
*Alex. Akehurst.*  
*Jo. Davis*  
*Walter Catstry.*  
*John Nidd.*  
*Wil. Harrington.*  
*Sam. Fairelough.*  
*Sam. Ball.*  
*Wil. Owtram.*

*Geo. Rust.*  
*Tho. Fuller.*  
*Jo. Templer.*  
*Tho. Gibs.*  
*Will. Lynnet.*  
*James Clark.*  
*Fran. Brock.*  
*Edw. Sammes.*  
*Ch. Mildmay.*  
*Rob. Dade.*  
*Jo. Wilson.*

*Ro. Metcalf. D.D.*  
*Ral. Cudworth. D. D.*  
*Jo. Prat. D. Med.*  
*Nath. Rowles. D. Med.*  
*Ed. Stoyte. D. Med.*  
*Hen. More.*  
*Job. Wells.*  
*Sam. Cradock.*  
*Job. Smith.*  
*Ph. Meadow.*

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C

A true

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A true Account of the Controversie, once depending before the Honourable the Committee for Reformation of the Universities concerning some Fellows of our Colledge put in by that Committee, who refused to live one year in the quality of *Probationers* according to the Statute and Custom of our Colledge.

*Humbly represented by Charls Hotham of Peter-House, for the fuller understanding of that clause so much excepted against at the latter end of the 4<sup>th</sup>, and beginning of the 5<sup>th</sup> page of his preface to the Committee.*

**W**E had in our Colledge a Fellowship voyd by an ejectment of one Mr. *Maxwel* by the Earl of *Manchester*, about the year 1644. which we were by an Ordinance of Parliament, bearing date *February* the 14<sup>th</sup> 1645. enabled to supply by election; but it falling out to lie long vacant, partly thorough some difference that fell out betwixt the Master and Fellows about a person pretended to be elected into it, partly by the Masters positive refusal to have any elections till we should apply our selves to the Committee for a decision of a Controversie that was among us betwixt two Statutes; one Sir *Goodall* (of whom mention is made, pag. 45. of my Book) mean while rides up to *London*, and upon a slight information of our having kept the Fellowship so long vacant, gets the Committee to dispose of it to himself.

This though it might seem strange, that the Colledge without being once heard should have their right of Collation taken from them,

them, yet in obedience to Authority, he was forthwith admitted; only was told he must according to our Statute live one year in the quality of a *Probationer*; but he not content therewith, procures from the Committee another Order to make him forthwith an absolute and compleat Fellow; which Order being delivered by him in a meeting of Master and Fellows, 'twas by the Fellows universally lookt at as a double grievance, of which 'twas thought fit we should Petition the Committee for a Redress; and the Master being by our Statute entrusted with the Patronage of the Colledge rights, and management of their affairs, was desired to take upon him that charge, but he utterly refused, hereupon on *January* the 2<sup>d</sup> ensuing, four of the Fellows (two of which were then the Deanes of the Colledge) presented to the Committee this Petition ensuing.

To the Honourable, the Committee  
for Reformation of the *Vni-versities*.

The humble Petition of *Charles Hotham, James Clark, Francis Brock, and Edward Sammes,*  
Masters of Arts and Fellows of *Peter-house* in *Cambridge*.

Sheweth,

**T**Hat Whereas by the constitution of our Colledge, all the Fellows of our Foundation do equally partake in all emoluments and power, invested in them by vertue of their admittance into the Society; our Lawgiver having for the quicker incouragement of Scholars in their Studies made men capable of preferment to Fellowships, presently upon their taking their degree of Batchelors of Art in the University; yet considering the manifold inconveniences might arise, by a sudden promotion of young Scholars from their state of minority, into an equal power and priviledge with their Superiors; did for the prevention thereof wisely ordain, that all men admitted into Fellow-

ships

*ships should for the first year be admitted onely into free Commons with the Society, neither receiving any further profit, nor at all intruding themselves into the Government of the Colledge till (their year of probation expired, they were adjudged worthy of that trust.*

*Now Whereas James Goodall, Batchelor of Arts, late admitted Fellow of our Colledge, by order of this Honorable Committee, hath by some undue information, procured your Order for his exemption from this Wholsome Ordinance, Which we hope Will upon more mature deliberation prove far from your honorable intentions;*

*Your Petitioners do therefore humbly pray, That for this and other reasons which they are here ready to produce, neither he, nor any other under the degree of Master of Arts compleat may be admitted to any such exemption, but may live one whole year in the quality of Probationers onely, as those that are Statutably elected into Fellowships use to do.*

*And your Petitioners shall pray, &c.*

This Petition seemed to carry so much reason in the very Front, that without our being call'd in to back it with any reasons, 'twas unanimously assented to, and an order therepon granted as follows.

Jan. 2<sup>d</sup> 1650.

## At the Committee for Reformation of the UNIVERSITIES.

**V**Pon reading the Petition of *Charles Hotham, James Clark, Francis Brock, and Edward Sammes*, Masters of Arts and Fellows of *Peterhouse* in *Cambridge*: It is Ordered by this Committee, That all Fellowes admitted or hereafter to be admitted into the said Colledge by Order from this Committee, being under the degree of Master of Arts at the time of their admission, be Probationers according to the Statutes of the said Colledge for the first



first year, to commence from the time of their admission. And at the expiration of the said year, this Committee will judge whither they are fit and worthy of any further trust.

*James Chaloner.*

But Sir *Goodall* with other two since put in by the Committee, not acquiescing in this Order, He that was the Masters man comes up to the Committee with this following Petition for a Revocation.

To the Right Honourable the Committee for  
Reformation of the *Universities*.

*The humble Petition of James Goodall, Thomas  
Church, Ralf Heywood, Bachelors  
in Arts.*

Humbly sheweth,

**T**Hat it having pleased this Honourable Committee to constitute your Petitioners in the Places and steads of several Fellows ejected out of their Fellowships in Peter-house in Cambridge, by which means your Petitioners have wholly declined those other helps they were capable of for their subsistence in the University, depending upon the advantage of their Fellowships whereby to enable them to attend their studies; yet upon some information given by Mr. Hotham, Mr. Clark, Mr. Brock, and Mr. Sammes in the absence of your Petitioners, they have procured your Honours Order, that your Petitioners should be only as Probationers for the first year, thereby sweeping away that maintenance that did formerly belong to the said ejected Fellows, and since conferred upon your Petitioners by this honourable Committee, although the said Complainants were settled by Authority of Parliament, and some of them at the time of the said settlements

were upon the same pretences they urge against your Petitioners, equally incapable as your Petitioners of enjoying their Fellowships, had that been any ground of exception at all.

For that by the aforesaid Order, the Complainants with the rest of the Fellows who have ample encouragement from the proceeds of their own Fellowships, without coveting that bread your Honours have been pleased to give for your Petitioners, will by this means divide among themselves the profits of your Petitioners Fellowships likewise; and it having been your constant course in reference to the Reformation of the said University so happily carried along hitherto by your Honours, to confer the proper benefit and advantage of every ejected Fellow upon him whom you have from time appointed to succeed him.

Your Petitioners therefore humbly pray your Honours confirmation of the former Order, whereby the said Fellowships are respectively conferr'd on your Petitioners, and the reversing of the said order granted in yours Petitioners absence.

And your Petitioners shall ever pray,

James Goodall.  
Thos. Church.  
Ralph Heywood.

So upon these bare suggestions strongly urged by some in their behalf, without our being once heard to make answer, or having the least notice to appear for that purpose, the Committee were pleased upon a debate among themselves to pass this following Revocation of our Order.

Ian. 23. 1650.

At the Committee for Reformation of the  
UNIVERSITIES.

**V**Pon reading the Petition of James Goodall, Thomas Church, and Ralph Heywood, Bachelors in Arts and Fellows of Peterhouse

house in Cambridge: And upon reading the former Orders of this Committee for constituting them Fellows of the said Colledge; And likewise the Order of this Committee of the 9<sup>th</sup> of January instant, made upon the Petition of Mr. Hotham and other the Fellows of that Colledge, concerning Probationers; This Committee finding by their former Orders whereby the aforesaid persons were respectively constituted Fellows of that Colledge, That they were to receive all profits and privileges as Fellows to all intents and purposes, do now Order upon debate of the whole matter, that the former Orders whereby the Petitioners were constituted Fellows, be pursued and observed according to the directions therein given.

James Chaloner.

At the receipt of this Order of Revocation we were much astonish'd, and almost wholly discourag'd from all further addresses: yet perceiving the fundamental error of all these proceedings was only the passing of Orders in the behalf of one party without hearing the other: we desirous that open reason might put an end to the controversy, having first given notice of our intentions to two of the parties then in Town, and to the Master of the Colledge their Patron, made bold to assay the Committee once more with this our last Petition.

One thing suggested by divers of the Committee, why they might the better pass this Revocation, was (as I had certain information from a stranger there present) that they were not present at the making of our Order; else it should never have been granted. I hope the like may be alledg'd by many more Members of that Honourable Committee, why the sentence of my ejection may as well be revok't, there being of their whole number which is forty at least, (if not a hundred) not above eight or ten at the most, present at the passing of that Censure.

To



## To the Honourable Committee for Reformation of the Universities.

*The humble Petition of Charls Hotham, James Clark,  
Francis Brock, Edward Sammes, and Charls Mild-  
may, Fellows of Peter-house in Cambridge.*

Sheweth,

**T**hat whereas James Goodall Batchelor of Arts, made Fellow of our Colledge by order of this Honourable Committee, did upon some undue information procure your further Order for his present enstating into all the priviledges of a Fellow, without first living a year in the quality of a Probationer, according to the Statute and laudable customes of our Colledge; according to which Statute, as well those put in formerly by the late King, as all others coming in by election, have been usually admitted and not other wise: You were pleased upon the humble representation by some of your Petitioners, of the great inconvenience of exempting men from that Statute to order, That both the said James Goodall, and all others admitted, or hereafter to be admitted Fellows of our Colledge, by Order of this Honourable Committee, being under the degree of Master of Arts at the time of their admission, should (as others that come in by Election) live one whole year in the quality of Probationers, as above said, and after their year of Probation expired, to stand to the judgement of this Honourable Committee for ther confirmation to further Trust.

Yet a small while after this your Order granted, and your Petitioners retir'd to their Studies, or other affairs, the said James Goodall, together with two more late admitted Fellows by Order of this Honourable Committee, have again Petitioned, and obtained an annullment of that your Order granted upon our Petition, with re-establishment of themselves in the first exemption, to the great detriment of the Colledge, and frustration of those good ends aim'd at by our Law-giver in that Statute.

Now

Now seeing your Petitioners did not (as was in a late Petition insinuated) go about by partial information to obtain that Order you were pleased to grant us in the Colledge behalf, but did give to Doctor Scaman Master of our Colledge timely notice of the day and matter of our Petition, that seeing he had refused to act with us, he might (if he pleased) appear to object what he thought fit against our Petition; But on the contrary, this revocation of your grant to us hath been procured in our absence, and without our privity upon some suggestions, the invalidity whereof we doubt not but evidently to demonstrate.

We therefore humbly pray, that the cause we manange may not be finally condemned before it be fully heard, but that we having now again given timely notice both to the Master of our Colledge, and likewise to the abovesaid James Goodale, now in Town, of our resolution to Petition on this Honourable Committee for a hearing and determination of the controversie this day, that both our selves and the other party (if they please to appear) may be heard speak: And if upon a full hearing of what shall be offered to your wisdoms on each side, it shall appear, that your grant to us was agreeable to reason and justice, that then the same grant may by the favour of this honourable Committee have its full and final establishment, for the making of these and all others under the degree of Master of Arts, With such reserve, as was in that Grant specified, Probationer, according to the Statute, and Customs of our Colledge, any former Order to the contrary notwithstanding.

And your Petitioners shall ever pray, &c.

Charls Hotham.

James Clark.

Francis Brock.

Edward Sammes.

Charls Mildmay.

D

Our

Our Petition read, I being there present, was very desirous to have spoken to it, and the Master with the other parties were present too: But our request of their hearing both sides together (speak, before a small determination, would not be granted: But upon a bare allegation of some, that we had not been Probationers our selves; that men should not be admitted to Petition against Orders: That at the passing of that Order we Petition'd against, they had had a long debate upon the matter (though neither we nor any instructed in our cause were there to answer to the Objections) we were without audience commanded to withdraw, and this conclusive Order pass'd against us.

Feb. 13<sup>th</sup> 1650.

At the Committee for Reformation of the  
UNIVERSITIES.

**V**pon reading the Petition of Mr. Charles Hosham, James Clark, Francis Brock, Edward Sammes, Charles Mildmay, Fellows of Peter-house in Cambridge, and upon long and mature deliberation and debate of the whole matter, it is Resolved and determined by this Committee that the said Petition be dismissed, and that the Order of this Committee of the 23. of January last, made upon the Petition of Mr. James Goodale, Ralph Haywood, and Tho. Church, directing the observance of the former Order of this Committee, whereby they were constituted and appointed Fellows of Peter-house; &c to receive all profits and priviledges thereof, to all intents and purposes do fully stand good, and is hereby confirmed: And this Committee declares that they will not hereafter receive any more Petitions from any of that society, against the last three persons abovesaid, concerning Probationership. And hereof all the Members of the Society are to take notice.

James Chaloner.

By virtue of this last Order, both these three, and two more afterwards put in by the Committee (being all of them under the degree of Master of Arts) which make up the number of five, men.



mention'd in my Preface, were (as is there mention'd) made capable a year before their time of intermeddling in the Colledge government, to the great detriment of the whole Colledge, and frustration of those many good ends aim'd at by our Law-giver in that Statute for Probation, as was allead'gd in our Petition; and will further appear by this following Plea, which I was ready to have made in the Colleges behalf, might I have had the justice to have been heard speak.

Thus far is a true and full account of the whole proceedings of the above nam'd controversie, which if called to it, I shall be ready to make good.

*Charles Hotham.*

My Plea, because it laies open more fully the whole state of the controversie then can be gather'd out of the foremention'd Petitions and Orders, and will both justifie our iterated Petitions, and those passages in my Preface, which touch upon that matter; I thought it necessary to be here annexed.

### *The Plea.*

*S I R,*  
**B**ECAUSE the paucity of the number of your Petitioners, was in our absence objected as an argument of weight against us; I desire leave in the first place to tender something for the taking away that misprision. Which is,

That the whole number of our foundation is but of 15. persons, viz. one Master and 14 Fellows: One of these Fellowships hath been ever since our coming to the Colledge, through convenience laid vacant as an augmentation to the Mastership, till the State can provide a better subsistence: Of the remaining 13. three are those late put in by this Committee, whose quality is now in dispute: Of the other ten, one lives a half distracted man at many miles distance; another lives a Chaplain in the Country: So the whole number of the Fellows now present at home or imploy'd here about Colledge affairs, is in all but eight, five whereof are

you see engag'd in the Petition; and one more there is, viz. the President of our Colledge, who I can make appear concurs with us in his judgement, and desire of the thing, though he will not have his name to the Petition.

So 'tis apparent all the present society but two are for the Petition, and neither of those two so far dissenting as to appear against it.

Nay, the Master of the Colledge his reason and judgement, if he contradict not himself, is with us (though not his hand, which we have reason to think is rather much against us) for I shall, if call'd to it, make proof that he did in our Colledge affirm that he was in his judgement wholly against this way of Sir Goodale's coming in by the Committee; that he had himself told him that in some of his carriages about this matter, he had broke his oath; And at another time that had he been in the Colledge when his Order came, he would have admitted him but as Probationer.

So you see it is, though the Petition but of five, yet the judgement and desire in effect of the whole Colledge.

I come now to the matter it self; Wherein I humbly conceive the question is not of the meaning, but equity of your first and second Orders, whereby Sir Goodale was made compleat Fellow: Whether those Orders or that latter granted us in the Colledges behalf for making him and the rest Probationers according to our Statute, be the more reasonable and fit to be stood to.

For to say your latter Order must be a nullity, because it thwarted a former, will I know upon your second thoughts be adjudged a reason not sufficient, especially it appearing that 'twas made upon the bare suggestion of one private Scholar, greatly to the whole Colledges prejudice, and without any notice given them to appear to the pleading of their rights. Else were those that reside at home, honestly attending upon the duties of their several charges, in a miserable condition, if upon the bare information of such as lie here watching at advantages, they may have their rights taken from them and given to others, and the meer plea of an Order pass'd in the case shall stand as a bulwark, to keep them from access to you, to reason out and Petition for their rights.

Besides, Orders from above of this nature have been upon representations from Colledges frequently revok'd in ancient times,

nor was it then thought any diminution, but rather an honor to the powerfulllest authority to strike sail to Justice.

We were indeed at first something discourag'd by some, telling us, that in Petitioning against an Order, we should but make our selves ridiculous; yet could not we for all that foster in our breasts such a prejudicate opinion of this Honorable Committee as to think you would prefer any Order of yours before the Laws of Equity and Reason, if appearing to stand in competition; which Honorable opinion of your justice, we doubt not, but you will think your selves rather engag'd to maintain, then that of an absolute power.

I hope you will pardon my thus prefacing; the Arguments made use of against the very admittance of our Petition, hath enforc'd me to it. I shall now fall upon the substance of the Controversie; and crave leave to tender you a few reasons for the preferring of your grant to us before your former Orders.

*Reas. 1.* My first Reason is from our Colledge Statute. Your first Order was against a wholesome Statute of our Colledge, the latter granted to us was agreeable to it. Now Sir, it is your great honor, that both your stile and end of your sitting, and whole series of your actings, tends onely to the Reformation of what is amiss in our Persons, Manners, or Statutes, not to the violation or everfion of any Ordinance of our Founder settl'd upon good grounds, and no wayes prejudicial to the Commonwealth.

When the State Collates into a Benefice, they give the man no more then others use to have by the gift of the Patron; So in a Fellowship your gift cannot be equitably construed of more then what one of the same qualification coming in, in right of the Founder could have laid claim to. Now those its apparent have for the first year their Commons onely, and are by Statute expressly excluded from Government.

*Reas. 2.* My second Reason is from the constant Custome wherewith this Statute hath been back'd in parallel cases alledg'd in our present Petition. All those put in by mandate in former times were Probationers, as well as those that came in by election, as appears by remarkable Presidents out of our Colledge Books; which, because the carriage of them hither is chargeable and hazardous, I have desir'd some of our Society to make search, and certifie the truth. This is their report.



We whose names are underwriters, do hereby testifie, that by the relation of those that have been long Fellows, as likewise by the Colledge Books it doth evidently, and fully appear to have been the Custome of the Colledge of *Peter house* in *Cambridge*, for those that have been admitted Fellows, either by Election, or the Kings Mandate, to be Probationers for one year, not intermeddling with the Government of the Colledge, not receiving any profits besides their Commons in the Hall. In witness whereof we have set our hands.

January 28<sup>th</sup>.  
Anno Dom. 1650.

*James Clark.*  
*Francis Brock.*  
*Charles Mildmay.*

And if the testimonies of these Gentlemen be excepted against, because parties to the Petition; I am ready, if requir'd, to produce yet further undeniable evidence of those that are no parties.

And as for those Fellows that came in by Election, there was never any the least doubt: one of your Petitioners, though now absent, *Mr. Mildmay* by name (one who hath more real worth in him then all these three put together) did live one whole year in the quality of a Probationer.

Its true, we that were put in by my Lord of *Manchester* were not probationers. But for that there were great and weighty reasons which will not hold good in this case.

First, 'Twas not my Lord of *Manchesters* Order, so much as a stringent necessity for the accomplishment of that end we were put in for, enforc'd this exemption upon us: the condition of the Colledge at that time no wayes admitting of this diminution of our Power. We came into a depopulated Colledge, all the old Fellows, but the President, and another, either actually turn'd out, or ready to be turn'd out for Delinquency, as fast as ever there could be got men to supply their rooms; nor one of those left (the President excepted) would once in publike own the Master by coming to Colledge-Meetings, or otherwise.

So then, if we had been Probationers, there would have been a Master and President without Fellows, an University Monster; they two should have swallow'd up the whole Colledge Revenue, and engross'd the Government wholly into their own hands, which had been, a flat contradiction to the Founders expresse Will;

Will ; who was so great a Favourer of Liberty, that he thought it not wisdom to entrust the Government solely in the Masters hands ; but appointed two Deans as Collateral Governors with him ; two Bursars for receiving and issuing out of the Colledge Revenue, a publike Lecturer, with others subordinate under him for training up the Scholars in learning ; all which Officers are annually chosen in full Meeting of Master and Fellows ; and besides these Officers design'd to their several tasks, the Master is in *arduis Collegii*, to consult the Fellows in Common, and stand to the determination of the major part ; in which meetings we esteem nothing done to be valid, if a major part of the Society, *viz.* eight at least be not present. So then had we not been admitted compleat Fellows, there could have been no choice of Officers for Government of the Colledge, nor any meetings according to Statute for ordering Colledge affairs, nor any lease to our tenants valid in Law, our Statutes excluding Probationers from intermeddling in either.

But now we have ten standing Fellows of the Society, enow for the choice of Officers and Government of the Colledge, every way according to the Founders intention.

Secondly, we enter'd into our Fellowships, *Flagrante bello*, when the warr 'twixt the late King and Parliament hung in suspence, ran great hazards, and the town being not fortified, we oft upon Alarms from the enemy, forc'd to our great charge, to relinquish our homes : Therefore 'twas but reasonable, that in compensation to our hazard, and charge extraordinary, an unusual exemption should be then allowed to us, though now denied to others, not having the like reason to claim it ; yet we did live a great time, as to profit, in little better condition then of Probationers, having receiv'd, till neer about a twelve moneth after our admission, not five pound a man above our Commons in the Hall.

Thirdly, At those times the Harvest was great, and the Labourers but few, 'twas neer the whole body of the University that was pull'd up by the roots ; but there was great penury of fit men for a new Plantation. I remember very well, that when my self came out from being pos'd in the Assembly, Mr. Palmer, the new made Master of *Queens* Colledge, told me, that he wanted men for a supply of some places there ; and ask'd me whether I could recommend to him any fit persons to make choice of. Now if

if in the midst of all those vast hazards and charges incumbent, there had not been allow'd some unusual indulgences to allure men thither; no body of tolerable parts, and any way considerable to those ejected would have accepted the places; but now the case is quite otherwise: we have divers of our Colledge hopeful youths of greater eminence for Learning, Piety, good affection to the State, that would be glad to accept of these Fellowships, with that statutable limitation of Probationership, which these men stumble at.

Fourthly, To this I might add, that four or five of us were at our admission Masters of Arts, some of us of great standing; now our Petition desir'd the probationership only of those under the degree of Master of Arts, & no others; for our Founder, having in Elections confin'd us to Bachelors; we conceiv'd his statute of probationership ought in equity to reach no higher, the putting in of Masters of Arts being a case beyond his thoughts, though at our coming in the necessity of state and penury of men to supply those vacancies did enforce a temporary disregard of both those statutes of election and probation.

But these reasons being now ceas'd, we hope an Argument drawn from them to a present infringement will be judg'd of no force.

Therefore that great objection now taken away, I desire leave to tender to your Wisdoms a few of those remarkable inconveniences that will ensue from the exemption of these men from this statute, and those not imaginary, but grounded upon fresh experience of the effects of this mans promotion, who was the beginner of these troubles.

First, Those good ends aim'd at by the Founder, viz. 1. The better fitting men for government, by a gradual and leasurely ascent to it. 2. The prevention of those distempers, occasion'd in the spirits of young men by a too hasty promotion. 3. The triall of mens spirits, and securing of the Colledge from being prejudic'd by such as upon sufficient discovery should shew themselves unworthy of trust.

All these, and many more good evils are frustrated by this exception.

Secondly, the State is no less hinder'd thereby, from that excellent



excellent advantage they might make by the observance of this Statute, to try whether these they advance be true genuine sons of the Common-wealth, or only compliers for preferment, before they settle them too fast in their trust; *Darius egeritur, quam non admittitur*. It must be some high crime only can prevail to ejection; but for non-admission a strong suspicion may serve. It hath been the wisdom of our fore-fathers to make Laws Probationers for a time; much more ought men to be so, & surely if you saw how men of all principles, even those most disaffected to the Common-wealth, flock in to the Engagement as to a common Asylum, and yet hold to their malignant principles as firm as ever, though perhaps you may deem him an enemy that refuses it, yet would you not esteem every one a friend and worthy of trust that takes it; nor would you presently give every man admission into your guards that had learn'd this watch word.

Therefore I hope you will think it wisdom rather to enlarge the practise of this Statute to all those Novices you put in (except such few as you have special assurances of) then to take it away in those places where the Founders providence hath prepar'd it to your hands.

And of all men there's the greatest need of that caution with this man who first began this dispute; for he was once (no longer agoe then last year *November* the 5<sup>th</sup> 1649.) so virulent an enemy to the Parliament, that in a publike Oration in the Colledge Hall, he parallel'd their proceedings against the late King with the Powder-plot contriv'd by the Papists and Jesuits, affirming to this effect, that both pretended Religion for what they did, but Religion disclaim'd both as an adulterine brood; with much more to this effect; for 'twas the chief subject of his Oration. Nor hath he further then by his meer taking the Engagement given us any probable demonstration that he is chang'd in his principles. And therefore seeing he goes about with others before sufficient time of triall, to fix himself into an immoveable station, I thought it my duty to give this Honourable Committee warning to take heed whom they trust; for 'tis not to be imagin'd, he will make any great scruple of breaking when time serves, that promise he made in the Engagement, who the Master will tell you, hath as he believes in some of his carriages about the acquisition of

this Fellowship made shipwrack of his oath: for he affirm'd in my own and others hearing that he had told him as much.

3. A third inconvenience of this exemption, is, that the present Society is very much wrong'd by it. This profit accruing from Probationers is one of the rightful appurtenances of our Fellowships; and the Parliament hath been hitherto so far from impairing ought of the rights of the University, that they have in the Headships thought fit rather to make augmentation. Our Fellowships I assure you are poor enough, and this year by reason of the Taxes like to be much impair'd. We Fellows of Colledges having been so modest as to desire no augmentation of the state; I hope therefore you will not think it equal, those casual augmentations allowed us by our Founder should be taken from us.

Nor I hope will this Argument diminish ought from the strength of what hath been, or shall be further produc'd; for if a man will will cut a slice out of my Coat to mend a hole in his own, and I implead him for it, his alledging that I have self ends in my accusation is no just bar to my plea for the recovery of my right: Yet might those that charg'd us with acting herein only upon money considerations, well have reserv'd that charge for those whose fingers have reason to stick closer to such dross. I am sure all I should be a gainer by your grant of our Petition, would not counterfeit half my expence. The truth is, we that are the Petitioners, are through the Masters neglect to do his duty, enforc'd at our own great hazard and charge to pursue the Colledge rights; but 'tis they that either sit still, or act against us that will be the only clear gainers, if the cause be cast on our side; so that had it not been more a common good, then private advantage we aim'd at, we had been worse then mad men to have stirr'd in this cause; but that which they alleadg'd of our depriving them of bread to enrich our selves, was a vile scandal; for they are not denyed to have according to Statute and Custome their commons allowed them freely, even throughout the whole year of their Probationership; and the remaining profits (though our right to dispose of as we see cause) is not determin'd to be divided amongst our selves, but would I think rather be thought fit to be seposited to exonerate our Colledge stock of some debts 'tis encumbred with.

4. A fourth and very great inconvenience of this exemption,  
is,

is, that if these men have this great privilege above those that come in by election, of being admitted a year before the Statutable time into present power and profit, 'twill much slacken the endeavours of younger Students, to approve themselves to us under whose charge they live, in that eminency of piety and learning which may recommend them before others to promotion; when they see before them hopes upon these or the like vacancies, to procure preferment with more advantage from a higher power.

And for this allegation, this mans carriage when he brought his Order to the Colledge, gives a just ground; for being told by the Fellows assembled in meeting that he must not expect to be admitted Fellow in other quality then of Probationer, he returned this scornful answer, that then he had as good have come in by Election.

5. The fifth and last inconvenience is, That this sudden ascent of young Scholars from a state of minority, to the highest power of command and equality with their Superiours, is both a strong temptation to pride and self-conceitedness, and of great danger to procure disorder and misgovernment in Colledge affairs: And lastly, to make the Colledge government contemptible to the younger Students, and so uneffectual to those good ends to which 'twas ordained.

And if any object, that all these reasons notwithstanding, those put in everywhere in other Colledges, both of *Cambridge* and *Oxford* by this Honourable Committee, are not Probationers but compleat Fellows.

I Answer, That the Statutes of some Colledges require no Probationership at all; in others the junior Fellows are by their constitution little better then Subordinates to a set number of Seniors, intrusted with the sole power of the Colledge; and so the like inconveniencies would not ensue there, as with us where all are equal.

I have now onely one thing more to add.

If these of whom the Question is, were either men of eminent worth, or great standing, or men that had in their spheres done any considerable service for the State, or were but remarkable for their good affection to the Common-wealth: We could well



have been content our priviledges should have slept a while for their sakes; we should have appeared here with thanks rather then complaints about any indulgence you should have granted them.

But no such eminency of any sort appearing in them, to diminish the whole Society, to make way for these mens greatness. I hope you will think it small justice.

The first of them you have heard prov'd to be scarce free of malignancy, and therefore a years time would do well to be given him for the working out that distemper.

Of the second I think I could alledge something very material, but all I will say at present, that he is for his person a diminutive wretch, I think scarce two foot high, a child or dwarfe, I know not whether; one that durst never that I hear of appear in person with his Petition before you.

Nor ought this to be esteem'd an unserious argument.

God in old times, willing to make his ministry honorable amongst men, would not admit of any that were in their outward persons notoriously defective; but would have them left to some meaner employment. I hope 'tis not your desire to make the Society of *Peter House* contemptible.

If he must needs be Fellow, yet one years growth, (if he be capable of it,) would do well to make him Complete-man before he were made Complete-fellow.

As for the third, *viz.* The Masters man, against whom we have formerly petitioned, I must beg leave, (seeing his ambition to live above his Last, hath forc't me here again upon the Stage) humbly to represent,

That, as I have it from those that knew him from the beginning, he was at first, being then judg'd insufficient, permitted to have his name entered into the Colledge at the instance of a Minister, upon Apology for him that he was poor, and willing to take pains to amend his defects, and that mean-while, to let him have his time running on, would be a deed of charity.

That from this first time of his admission, till the *Midsummer* before his Commencement, he resided not at all as Student in the Colledge. All that while (which was about three years) never appeared to us in any other habit, then of the Masters man, waited

waited upon him in a cloke whithersoever he went. After that, all the time he continued member of the Colledge, was only one year, in which time he was made by the Masters nomination, first poor scholar, then under-Butler, and from thence we know not, whether by his own or Masters merit is now promoted into a fellowship, and not content with that, will be *ant Caesar, ant nullus*.

There are only four things can be alledg'd as a seeming plea for his capableness of this preferment.

1. That being a Schoolmaster at a private house in the Country, he hath train'd up a scholar or two for the University.

2. That he had taken his degree of Batchelor of Arts in the University.

3. That for a while he was made a Logick Lecturer in the Colledge.

4. That he was by our selves recommended to a fellowship in *S. Johns* Colledge.

To the first I answer, That to teach children the rudiments of Latine, and to be a fellow of a Colledge *i. e.* one able to train up the riper youth in all the varieties of the best learning of all sorts, are two vastly different employments; yet in that learning of his proper sphere he pretends to some sufficiency in, 'tis generally believed, he will upon due examination be found notoriously defective.

To the second, that to be stopt of a mans degree in the University is accounted such a hideous disgraceful punishment, as 'tis seldom inflicted on any, but where there appears a concurrence of some scandal in life and egregious duncery together; the stopping a man of his degree, having sometimes neer cost the poor discontented party his life. In regard of which, degrees have been given to some, rather as an alms of charity, then reward of merit.

To the third we answer; That he was indeed made Logick Lecturer once for a small time, but 'twas only because there being at that time no choice of Bachelors of Arts for that service, the Lecturer must have made him or none; but if that were argument enough to make him fellow, we could find enough in our house of not two years standing should outstrip him in that skill.

Lastly, to his Recommendation to a fellowship in *S. Johns* Colledge

ledge by most of us that now except against him, 'twas a thing done by us (if done at all,) upon a surprisal, with such inadvertency, that none of us have the least remembrance of any such matter; but by diligent enquiry from others, we are informed that he had two certificates: one in English subscrib'd onely with three hands, (my self none of them) the other in Latine, in that old frigid form, usually given to such as are cut out for Country Curates, and Ladies Chaplains, to which I'me told I have subscrib'd, which I confess might possibly be; for not knowing my self any thing of him, save only that he was our Butler, and seeing one of my Seniors hands at it, I might possibly not heeding the matter, subscribe upon his Credit.

\* We have divers testimonials come off to us to be signed testifying only the Scholars degree or continuance, &c. of which note for ought I knew this might be; for I verily believe I did not read it.

\* But that either of these Certificates contain in them any Recommendation to a fellowship in *S. Johns*, whosoever asserts it, will I'me confident upon good information be found void of truth.

Yet might that man not unfitly be thought capable of a junior fellowship in *S. Johns* Colledge, where the government being onely in a few Seniors, he could not of many years, be capable of such considerable trust: and yet the same man unfit for a fellowship in *Peter House*; where by the constitution after one year (by your order presently,) he is capable to participate as Fellow, in all points, both of profit and government, equally with the greatest Senior of the Colledge.

But admit that upon his pretence to stand for some poor preferment abroad to find himself bread, and that without being speedily accommodated with some kind of testimony from the Colledge, some of us upon a sudden surprisal not taking time for sufficient enquiry, were so Charitable as hastily to signify in that old Latine form our presumptions rather than knowledge of him.

For him having by this cheating pretence gotten his almes, to make use of our Charity as a sword to wound ourselves with, will I hope be thought no fair dealing, so as to find from you the least encouragement.

Yet this is the case, and this is *Mr. Byfield's* Godly youth, and such are the practises of those who contrary to the tenor of the 15. *Psalm* make truth, faithfulness, plain dealing, moral honesty (those great ornaments of humane Society) no essential ingredient into their notion of Godliness; Nor the contrary loathsome vices any defects in it.



*Hic niger est, hunc tu Romane caveto.*

Therefore ought not this peece of legerdemain to be allow'd of as a fence against a fair trial, whether those imputations of duncery, that are laid to his charge be true, of which there are, besides what I formerly hinted, these pregnant suspicions.

1. His Master, Doctor *Seaman* himself, if ask't the question, will, for some thing I know, scarcely deny his own suspicion of it.

2. Heres one of our Society who was Moderator at one of his exercises he performed, and can witness he did it very miserably.

3. Both Mr. *Sedgwicks* private examination, that he might have something to say for him, and Mr. *Byfield* so studiously strengthening himself with defences in that point, before ever we in private, or in publick objected any such thing, argues strongly he saw there was a weakness there; else there would not have needed so much art to fortifie that passage.

Now for my own part, I have against the person no private prejudice at all, (he being a man I never took notice of, otherwise then as of a Butler,) onely desire that true worth wherever it most appears, in him or others, may take place: For this will both give greatest encouragement to virtue, and industry in the Colledge; and will tend most to the vindication of the repute of this Honorable Committee.

For however those whom you put in, what ever they be, may in reverence to your great authority pass among us for currant coin, yet twill not be for your honour, where there is much fine gold ready for the impression, to set you stamp upon Copper.

Therefore seeing those that come into Fellowships by elections from us, pass first a publike examination before the whole Assembly of Master and Fellows, and seeing we ourselves and all others, put in by my Lord of *Manchester*, were not admitted till we were first publicly examined of our sufficiency before the whole Assembly of Divines, we humbly intreat that this mans examination by one Divine alone in a private Chamber may not pass for authentick, but that this further Petition I here present you with, from a considerable part of our Society, may together with something I have to speak to it, be taken into consideration.

To

To the Honourable, the Committee for Reformation  
of the Universities.

*The humble Petition of Charls Hotham, Francis Brock, Edward Sammes, and Charls Mildmay, Fellows of Peter-house.*

Sheweth,

**T**hat whereas some of your Petitioners having on January 2. last past, presented to this Honorable Committee two Petitions; the one for making those put into Fellowships of our Colledge by your Orders, being under the degree of Masters of Arts, Probationers according to the Statutes, and laudable Customs of our Colledge: the other for suspension of that your Order, whereby Sir Haywood, first the Masters man, then under-Butler of our Colledge was promoted into a Fellowship, till that equitable title the Colledge pleaded to a Collation into that Fellowship might have its full trial before the Committee of Visitors sitting at Cambridge: the first of which Petitions was with some reasonable restriction granted, the other denied.

We Humbly pray, that seeing upon the Petition of others, your grant of our first Petition hath been revoked, and we put to the great vexation of petitioning for another hearing: our second Petition also which was denied, may upon some new matter we have here to present, be taken into a second and serious consideration.

That seeing it was certainly our Founders intention, that the best and ablest of our Students should have the benefit of his Fellowships; which good design of his, we humbly conceive it was never your Honorable intentions to make frustrate; and that we have divers of our Colledge, some of them Batchelors of Arts of good standing, others of this insuing March, very eminent in all accomplishments of Piety, Vertue, Learning, and Faithfulness to the Commonwealth, to whom it must needs be a great discouragement to see one of far inferior desert prefer'd before them.

That therefore you will be pleas'd, either to grant leave to the Colledge (who have best means of knowing the sufficiencies of their own Members) to elect the best, and most worthy into this Fellowship: or to receive from the Colledge a Catalogue of such as they know to be every way the best qualified, to be examined jointly with this Sir Haywood by some unprejudic'd men in some open place:

place : and that he whom these Examiners shall represent the most worthy, may by the Justice of this Honorable Committee be preferred to this trust.

And your Petitioners shall ever pray,

*Charles Hetbam.*

*Francis Brock.*

*Edward Sammes.*

*Charles Mildmay.*

SIR,

**T**O this Petition, I have three things to offer of a considerable import.

The first is, That a Fellowship of a Colledge is not such a contemptible trust, as some weighing it in other then Reasons Scales, may be prone to imagine : much of the temperature of the whole Nation will in a short time be alter'd for better or worse by these men according as care is had of their choice, as I could, if it were not for tiring you too much, at large demonstrate.

Secondly, Because in this case so much stress is laid upon a testimony got by surprisal, I must needs acknowledge your Wisdom and Justice in resolving to prefer none to Fellowships, without a Certificate, under some of the hands of the place where they have lived. Yet I beg leave to tell you,

That 'tis a great mistake, that when a man comes to you with a Colledge-testimony ( which cannot justly be denyed to those that are not exceedingly scandalous in point of Learning or Manners ) you look at them as recommended for the most deserving in that Colledge to their Fellowships : which is not so : those that come a begging to you with these Passes, are oft men of a desert far inferior to those modest men that sit at home, waiting upon Gods Providence to stir up the hearts of those at home that are knowing to their merit, to give them without asking the due reward of their deservings.

The third and principal thing which I am perswaded will prevail with you, not in this onely, but in all other cases to devolve (with some reasonable restrictions) all your power into the hands of Colledges in point of Elections, is, those admirable remedies we have, partly by the Wisdoms of our several Founders, partly by some good Customs of ancient use among us, provided

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against



against all base and sinister proceedings, which in our Colledge (and I think other Colledges want not the like) are these,

\* This Statute the Master, though more then once urg'd to it in public meetings, could never be brought to observe.

1. Presently upon any vacancy of a Fellowship, we are by our Statute \* to proceed towards an election, except upon such grounds as are specified in another Statute, we shall, with the Bishop of *Elis*'s approbation, determine to keep it vacant; which determination ought, according to ancient President, to be Registered in our Colledge Records.

And this is an excellent provision for those Scholars, who by being rightly qualified, may justly claim the right of having (except such good cause as I nam'd can be shewn to the contrary) an Election pronounc'd upon any vacancy that shall fall; and so not be wearied by delays out of the hopes of that preferment the Founder hath provided for their subsistence.

And if any man be wrong'd of his Right in this kind by want of an Election, his Tutor may and ought in a civil way, desire of the Master, or if need be, demand to have an Election call'd.

2. Our Proceedings towards an Election are not by our Statute to be hurried on in a clancular way of precipitancy; but first there is to be pronounc'd by the President in a full meeting the first warning (as our Founder styles it) towards an Election to be made the eighth day after this monition.

This with some other cautions I shall tell you of, is an invincible remedy against pack'd meetings for an Election: for by this means any Fellow, not above a hundred miles distant, may have notice to come up to be present; or notice may be given to any deserving man of the Colledge or University, to come up and stand for preferment.

3. The

3. The eighth day being come, the Master or President is to send Summons to all the Fellows at home to come to the meeting, & we customarily proceed not to action in those or any other meetings, till we are sure each man at home hath had his due Summons; and if we doubt it, we usually before we begin to act, send one to knock at his chamber door, who we suspect might want notice; which is another admirable way of prevention against deeds of darkness. And for this we have a most excellent provision in our University Statutes, by which 'tis appointed, that besides Summons to every congregation given by the Squire Bedels of the University in some precedent meeting, or by a threefold Proclamation in the open Courts of every Colledge, an hour or thereabouts before the congregation, the School-keeper is to ring a Bell which may be heard all the Town over, whereby the whole University may be again put in mind of the meeting; which Bell commonly holds ringing for half an hour at least; and our Statute says, that nothing transacted in the Regent house before the ceasing of that Bell, shall be valid.

This prevents an excuse that might be drawn from the uncertainty of Clocks, for that unsquare practise of a few mens entitling the whole University, to the huddling proceeds of an anticipated Assembly, or stolln Congregation: For which we have likewise another brave provision, both in the University, and particular Colledges, *viz.* That we cannot create a President of the Assembly for half an hours service, but must stay still for his coming, whose standing office it is to preside.

4. 'Tis not in our Colledge a tenth or twentieth part that by our ancient customs can make a meeting;

but of our whole number of Master and Fellows, which is 15. there must be a major part present at the scrutiny, else we account our selves not in a capacity of acting as a Colledge assembly; and therefore the Master, upon these or the like urgencies, hath power to summon even those absent with leave, in what quarter of the world soever they be, in *England* or beyond Seas, which is another excellent remedy against oligarchical combinations.

5. A day or two before our Election, if either there be like to be competition, or he that stands be not agremial, and one of certainly known sufficiency, we have a public examination of him or those that stand for the Fellowship, in full meeting of Master and Fellows.

6. When the point of Election comes, we are solemnly prepar'd to it, and put in mind of our duty by a deliberate reading both of that Statute of *Eliz.* against bribery directly or indirectly, and of such of our locall Statutes as contain matter of direction to us in the point of Election, especially of the quality and conditions of the person to be Elected, which are particularly specified out to us, and we enjoyn'd by vertue of our oath to chuse *sic conditionatum, & non alium*, one thus particularly qualified, and not another; and if we do otherwise, that our Election is a meer nullity.

And this is another strong fortress against partiality, bribery, perswasions of friends, Letters of great men, and other temptations, which they lie open to who have not these obligations of Laws, and oaths to restrain their consciences from transgressing: This provision hath in former times been a bulwark of that strength, that it hath for many shocks withstood the battery of an imperial mandate.

Besides, those that come to preferment in this manner,



ner; come to it in a generous way upon plea of right, or merit, have no temptation, much less dire enforcement (for counterbalancing the like proceedings of their corival) to any ignoble solicitations of such as have votes in the Election to come in purposely for them, or to favour their cause. For all at home are to be there of course, 'tis their duty, they cannot plead avocation to other assemblies: And he that should seek to engage men that go upon oath to the Election of a particular Favourite against the Founders prescript, would be look'd at as the vilest Pander, and his motion by all men rejected with scorn.

7. We come not to our Election with our heads full fraught with multiplicity of affairs of another nature from that we have in hand.

8. In our Elections we continue from the beginning to the end (except it be rarely that one with leave steps out for a small time) one firm standing body, not fluent like that of a River, whose waters you cannot call the same for one hour together.

And we being the same persons most what present at every meeting, have by that means the whole series of all our transactions fixt in our understandings, can make each part from end to end agree with other, and can if need be, give an account of any thing done, a whole moneth or half year after.

9. Another excellent order we have, that in all Elections every man is to write in a sheet of paper laid before us for that purpose, his own name, together with the name of the party he chuses: which paper is to be laid up in the Colledge Treasury, that so if complaint be made of any undue Election by transgression of Statute or otherwise, it may appear who were the transgressors.

10. We are accountable for what we do to a higher power, where none of our body being Judges, there is not the least temptation of interest to favour and patronize us in any our unjust actings.

11. He that is Elected by us, takes an oath to the observance of the Colledge Statutes, which is a great obligation to him in Elections afterwards, and all other transactions to deal uprightly : we our selves at our admission did in effect the like ; made a solemn promise in the presence of God, that we would in our places promote piety, &c. with respect to all the good and wholesome Statutes of the Colledge.

But these put in by this Committee, come in upon us without any such obligation upon them.

12. 'Tis our great interest to chuse those into our Societies that are every way the most deserving for their piety, vertue, learning, and all other accomplishments ; they being like to be our constant companions, not only in our publike meetings, but convival discourses, and more familiar privacies.

If any one of those precious conditions our Founder specifies be wanting in him we Elect, he proves within a small time a prick in our eys, a thorne in our sides, a scandal and infamy to our whole Corporation : And on the contrary, to have such as are most eminent for their parts and vertues incorporated into our fraternities, is the great delight of our life, the highest improvement of our happiness, and choicest ornament of our Communities; to obtrude an empty dull soul or vicious person upon a Colledge Society, is to bind up the dead and the living together into one fagot.

When any one of a Colledg goes to perform his publike exercises in the Schools, all that whole Colledg are to attend him orderly in their formalities to the place ;  
Where

where if it be his ill hap to play the Dulman, all the whole Colledge are ready to blush, and almost hide their faces for shame; but if he perform his exercise like a rational man and a scholar, every one of the Society think themselves sharers with him in the glory.

Hence it comes to pass that if there be anywhere a man of eminency, Colledges are sometimes ready to fall into unkindnesses through contention who shall have him.

Therefore we having besides all these obligations by Statute, and all those wise provisions against partiality and packing, a strong interest of our own to oblige us to regard vertue and true merit: the only way to have every Colledge replenished with men of worth, is to leave them to their free Elections.

And if those that stood Candidates for preferment, were but to be examin'd of their good affection to the Common-wealth, as well as of their learning & piety, and withall some obligations put upon the Electors, to have special regard to that amongst other qualifications; \* I know not then what could be wanting to make Col-  
 ledge Elections the surest step to a most flourishing  
 University, and every Colledgea Nursery to supply  
 the Common-wealth with choise and able spirits for  
 publike trusts.

\* And the  
 Masters  
 negative  
 voice abo-  
 lish'd.

But I will not take upon me to prescribe to your wisdoms in the general; only tis my humble request that, that face of the discourse which looks with a particular eye upon our present controversie may not be disregarded; and further that if against what I have delivered, any material Objection be propounded by the Master of our Colledge or others, I may have the favour to be admitted to a reply.

This was as far as I can recollect it for substance, that which I was prepared to have spoken in the Colledges behalf, for making those young Youths Probationers according to our statute, and sus-  
 pension



pension of our Masters man; which well considered of, will I hope abundantly justify what I have asserted in my Preface concerning that matter.

And I might, had I been then aware of it, have produced another argument as strong to the point as any of the former, viz. this most Honorable resolve of the Committee it self, which though entitled, through the Clarks inadvertency with an &c. cannot I think be judged the proceed of any other Committee.

*April. 11. 1650.*

At the &c.

*Ordered,*

**T**hat this Committee will not recommend any more persons to Fellowships or Schollerships in any of the Colledges or Halls, in either of the Universities respectively, where there is a competent number of Fellows to chuse according to Statute.

Now if our Grant for Probationership were to be null'd because it cross the first Order, and no Petition or proceedings upon it must be received to stand good against a preceding Order: then, how so many Petitions for Fellowships in our Colledge; (where we are a competent number of Fellows to chuse according to Statute) and Orders thereupon issued out for disposing of them to the Petitioners, can be valid against this generall order of a precedent date, is a thing I cannot possibly understand.

All what I have said notwithstanding, I did then fully acquiesce in the conclusion of the Honorable Committee, till about half a year after, upon the sence of the evil consequences like to issue thence upon the great work of our Colledge Reformation, I was enforced once more to mind them of it: after which, my resolution was, as having done my duty, to have sitten down and slept in silence; but I have been awakened against my will, and 'tis only the dures of a harsh censure hath extorted from me these Remonstrances.

I hope and much wish I may not have occasion to write any more of these Subjects; being desirous to withdraw mine eyes from beholding vanity, and retire back into my heaven of a contemplative life.

*Charles Hotham.*

**ERRATA.**

Page 5. l. 18. r. confer'd. l. 28. r. peace. p. 12. l. 5. r. a tenant at will. p. 17. l. 4. for make r. declare.

**FINIS.**

